

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DEUTSCHE BANK NATIONAL TRUST)	CASE NO. 1:07CV3391
)	
Plaintiff,)	JUDGE CHRISTOPHER A. BOYKO
)	
v.)	MAGISTRATE JUDGE VECCHIARELLI
)	
KERVIN HINTON, et al.,)	
)	
Defendant.)	<u>ORDER STAYING CASE</u>

This matter is before the Court on “Plaintiff’s Motion for Default Judgment”, ECF Doc. No. 14, filed on March 26, 2008. Plaintiff is seeking an entry of Default Judgment and Decree of Foreclosure against Defendants Kervin Hinton and Gwendolyn Hinton. The Complaint alleges monthly payments have not been made and the conditions of the mortgage have been broken.

Defendants are in default for failure to file an Answer or other responsive pleading, (*See Clerk’s entry of Default entered on March 26, 2008, ECF Doc. No. 13*).

Plaintiff filed a “Notice of Filing Final Judicial Report,” ECF Doc. No. 11, on March 21, 2008.

Attached to the “Notice of Filing Final Judicial Report” is “Exhibit A: Final Judicial

Report.” Exhibit A includes a docket from “U.S. Bankruptcy Court, Northern District of Ohio, Bankruptcy Petition 08-10054,” indicating Gwen Hinton as Debtor.

Defendants, through counsel, filed a “Notice of Filing Bankruptcy filed by Gwendolyn Hinton and Kervin Hinton, in Case No. 1:07CV1837, ECF Doc. No. 20, in another foreclosure action filed on June 20, 2007 before Judge Kathleen O’Malley. Judge O’Malley ordered the matter stayed on January 7, 2008 pending resolution of the Bankruptcy.

Plaintiff filed the captioned Case No. 1:07CV3391, “Deutsche Bank National Trust Company, et al v. Kervin Hinton and Gwendolyn Hinton,” on October 31, 2007. Defendant Gwendolyn Hinton is a Defendant in this case as well as the case pending before Judge O’Malley.

As of this writing, Plaintiff has filed neither a “Motion from Relief from Bankruptcy” nor a “Motion to Lift Stay” in the foreclosure action pending before Judge O’Malley. Further, this Court has not been advised whether the Bankruptcy proceeding has been closed or dismissed, or whether the Debtor has been granted a discharge.

Pursuant to 11 U.S.C. § 362, the filing of a petition in Bankruptcy operates as an automatic stay of any judicial proceeding against the Debtor.

Therefore, the Court denies Plaintiff’s “Motion for Default Judgment” filed in 1:07CV3391, ECF Doc. No. 14. Further, this matter is STAYED and removed from the active docket pending resolution of the Bankruptcy matter.

IT IS SO ORDERED.

s/Christopher A. Boyko
Christopher A. Boyko
United States District Court Judge

April 30, 2008